

## **APPENDIX B: REAL ESTATE**

### **REAL ESTATE PLAN IN SUPPORT OF THE POST AUTHORIZATION CHANGE REPORT CELILO VILLAGE REDEVELOPMENT CELILO, OREGON**

#### **1. PROJECT DESCRIPTION.**

This Real Estate Plan (REP) is developed in support of the Post Authorization Change Report under authority of Section 401, Public Law 100-581, Title IV, signed into law on November 1, 1988, as amended. The project is located at Celilo, Oregon approximately seven miles east of The Dalles, Oregon.

This Federally funded project consists of the following distinct elements: improvements and additions to the existing sewage system, new water source and storage facilities, reconfiguration of existing roadways to allow access for emergency vehicles, including fire protection, replacement of Federally provided substandard units with modular housing, and addition of facilities for Tribal use (i.e. secured storage area, restroom/shower building, net repair area, camp pads). In conjunction with infrastructure improvements and replacement housing as a distinct element of this Federally funded project feature, it will be necessary to comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended (P.L. 91-646). It is anticipated that the Corps' Celilo Village redevelopment activities will displace current residents from their existing dwellings on either a temporary or permanent basis. There are 8 privately owned dwellings and 5 Federally owned facilities currently occupied. There are 2 privately owned dwellings and 2 Federally owned facilities that are uninhabitable and consequently have been abandoned. All land is owned by the United States of America, currently under the jurisdiction of the Bureau of Indian Affairs, therefore no land acquisition is required for the project.

#### **2. PROJECT HISTORY (RELOCATIONS)**

Celilo Village, one of the most visible Indian communities in the United States, is a direct result of relocations associated with Federal Dam construction. By the Act of June 29, 1948, 62 Stat. 1120, Congress appropriated funds to construct, repair or rehabilitate the buildings and utilities on this land and hold in trust for the benefit and use of the three Tribes and the other Columbia River Indians. Pursuant to this, 10 homes were constructed and the occupancy of each was assigned to designated beneficiaries of the trust. BIA granted permits to original assignees that contained language regarding maintenance obligations and revocation for non-compliance. By the Act of July 15,

1955, 69 Stat. 361, Congress appropriated funds to relocate the permanent resident Indian families who were in the project area at Celilo. The act authorized the acquisition of lands as necessary, title to be acquired in the “name of the United States in trust for individual Indians for whose benefit it is acquired.” Several families were relocated to neighboring communities, while five families were relocated to Celilo Village.

### **3. CURRENT DESCRIPTION OF AREA.**

The Village currently supports 13 dwellings and approximately 50 people, most of whom live at or below poverty levels. The primary source of subsistence for the residents is derived from the Treaty Fishery. The Village lacks adequate sanitary and water systems, resulting in public health and safety problems which concern Federal, state and local health officials. To further complicate the problem, the Village supports a large seasonal increase in use by Treaty Fishers during each spring and fall fishing season. Despite these problems, the Village remains a central cultural and religious gathering place for Northwest Indian tribes exercising Treaty Fishing rights on the Columbia River.

### **4. GOVERNMENT OWNED LAND.**

Celilo Village consists of approximately 34.5 acres of land, held in trust for the three tribes and the other Columbia River Indians by the United States of America, and is currently under jurisdiction of the Bureau of Indian Affairs.

### **5. NAVIGATION SERVITUDE.**

The issue of navigation servitude is not applicable to this project.

### **6. ACQUISITION CRITERIA.**

It is assumed that at least 9 of the 10 privately owned dwellings, or remnants thereof, will be acquired prior to construction. According to a memorandum from the Regional Solicitor’s opinion to the Area Director, Portland, dated June 11, 1975, the BIA used the 1955 relocation funds of Abe Showaway, Jimmie George, Minnie Johnley and Hannah Yallup to build houses (A, B, C, D) on the land previously acquired under the 1947 Act. Per said memorandum, it appears the BIA also used the relocation funds of Effie Cushingway Gunnier to rehabilitate house #7 which had been built for use of the Tribes and Indians designated in the 1947 Act. This house had been previously assigned to Irene Williams Brunoe. In said opinion, it was stated “where relocation funds were used to repair or build houses on the trust land acquired under the 1947 Act, the houses should be considered as held in trust for the individual Indian, the ownership of which could descend to the heirs. The land would continue to be held in trust for the Tribes and Indians as designated in the 1947 Act.” Additionally, only a slab remains where house C was located and the shell remainder of house D is vacant.

The Corps has requested that the BIA compile probate orders to determine the heirs or devisees of houses #7, A, B, C and D, prior to Corps acquisition, so the Corps can

appraise the real property and make payment for fair market value to the rightful heirs. If the heirs cannot be located, the funds will be deposited in trust to be claimed at a later date by the rightful heirs.

If the probate orders compiled indicate the current occupants of houses #7, A and B are heirs to the original Indians relocated in 1955, the Corps will appraise the real property and make payment for fair market value to acquire the dwellings directly from them and proceed with the implementation of P.L. 91-646 (for further information regarding payments to owner-occupants, see paragraph #7, Public Law 91-646 Relocation Data, Last Resort Housing in this report). If the probate orders compiled indicate the current occupants of houses #7, A and B are not heirs to the original Indians relocated in 1955, the Corps will request the BIA to determine whether or not they are lawful occupants in the Village. If they are determined to be lawful occupants, they will receive the relocation benefits of persons with tenant status, as described in the “Public Law 91-646 Relocation Data, Tenants” section of this report.

## **7. PUBLIC LAW 91-646 RELOCATION DATA.**

### **7.1 General.**

Public Law 91-646, Title II, authorizes payment of relocation benefits to persons displaced from homes, businesses or farms by Federal or Federally-assisted programs. Those benefits comprise moving expenses and replacement housing benefits. They are separate from and in addition to the acquisition payments for real property. Estimated benefits for residential displacements include moving expenses and replacement housing. Owner-occupants and tenant-occupants of mobile homes will be afforded the same benefits as occupants of conventional dwellings.

### **7.2 Cultural Considerations.**

Given the cultural and religious significance, as well as the socio-economic factors in Celilo Village, residents determined to be lawfully present and eligible to receive relocation benefits will most likely be allowed, by BIA, to resettle in the Village after all infrastructure improvements are complete. As previously stated, the primary source of subsistence for the residents is derived from the Treaty Fishery. Residents are highly apprehensive and concerned about the potential of being displaced and not being permitted to return to reside in the Village when redevelopment is complete. It appears to be a cultural norm for extended families to reside within the same dwelling or within close proximity to one another. The residents have expressed that they do not desire to relocate to neighboring areas outside the Village. Therefore, resettlement appears to be the only viable option for the residents.

### **7.3 Eligibility.**

Eligibility for relocation assistance begins on the date negotiations are initiated for an occupied property. When negotiations are initiated, all occupants are to be promptly notified in writing of their eligibility. The Corps will work with BIA, the jurisdictional agency, in an effort to make all such individual determinations of status prior to the Corps' issuance of this “Notice of Eligibility for Relocation Assistance”. The Corps

intends to use the date of authorization of the Celilo Redevelopment project as the official date to issue said Notice.

#### **7.4 Tenants.**

With regard to the 10 homes originally constructed in the Village pursuant to the Act of June 29, 1948, 62 Stat. 1120, the BIA does not list the homes on its inventory. However, to date, no records indicating that the homes were ever deeded to individual Indians have been located (such an action would not be consistent with the 1948 Act). BIA still owns the remaining 1948 homes and administers a permit program allowing tenants to reside in said homes. Additionally, the status of the current residents in the remaining 1955 homes and the other privately owned dwellings in the Village has not been verified. In order for the Corps to fulfill its statutory obligations as the displacing agency for this project, the Corps has requested that BIA to provide information on the status of all persons currently residing in the Village (i.e. tenant, owner-occupant, lawful or unlawful occupant). This determination is critical as it clarifies, for the Corps, each individual's status and eligibility as displaced persons for relocation benefits in accordance with P.L. 91-646. Persons determined to be lawfully residing in the remaining 1948 homes will be classified as tenants. Further discussion on those residing in the 1955 homes can be found in the following section ("owner-occupants"). Persons determined to be unlawful occupants may not qualify for relocation benefits. 49 CFR Part 24.2 defines "unlawful occupancy" as follows: "A person is considered to be in unlawful occupancy if the person has been ordered to move by a court of competent jurisdiction prior to the initiation of negotiations or is determined by the Agency to be a squatter who is occupying the real property without the permission of the owner and otherwise has no legal right to occupy the property under State law. A displacing agency may, at its discretion, consider such a squatter to be in lawful occupancy." Again, it is the responsibility of BIA to make every attempt to determine the status of each individual, lawful or unlawful, currently residing in the Village. It is the Corps' understanding that the BIA and the Tribal governments will make a coordinated effort to accommodate unlawful residents by either issuing them a permit to reside in the replacement housing to be provided in the Village (thereby making them a lawful resident) or by providing a place for them to reside on tribal land elsewhere.

With regard to the remaining 1948 homes, replacement housing will be provided by the Corps to mitigate for the substandard quality of the original 1948 units placed in the Village (BIA dwellings). Said housing will be transferred to BIA upon completion of construction, for BIA's operation, maintenance and administration of a permit program allowing tenancy to eligible displaced persons. No payment shall be made to BIA for the value of the 1948 homes destroyed or rendered uninhabitable by the infrastructure improvements.

#### **7.5 Owner-occupants.**

If the probate orders compiled indicate the current occupants of houses #7, A and B are heirs to the original Indians relocated in 1955, they will receive relocation benefits as displaced persons with owner occupant status. Additionally, other owner occupants, if determined to be lawful occupants in the Village (potentially includes houses MH C, D &

#10, MD #1 & #3) will receive relocation benefits with owner occupant status. The relocation benefits for owner occupants differ from those previously described for displaced persons with tenant status. If the BIA and Tribes determine that private structures continue to be appropriate on Trust land, individuals with owner occupant status could receive title to a new unit to be placed on the site. If the BIA and the Tribes determine that private structures are not appropriate on Trust land, current owner occupants could receive the value of a replacement unit in combination with an offer to occupy (through permit) one of the new modular units or they would have the option of replacement housing off-site.

Should any of the owner occupied dwellings to be acquired be encumbered by a bona fide mortgage, the displacee will be placed in the same position with regard to the mortgage payment when relocated to their replacement dwelling. This may require supplementing the mortgage either in the form of a lump sum payment to the displacee or a paydown on the amount of the new loan if the interest rate is higher. However, if the existing mortgage can be transferred to the replacement dwelling, these mortgage benefits would not be applicable. In addition, reasonable expenses incurred by the displacee for evidence of title, recording fees, and other costs incident to obtaining the replacement dwelling (excluding prepaid expenses) will be paid.

#### **7.6 Last Resort Housing.**

Section 206, P.L. 91-646, provides that, as a last resort, the head of the displacing agency may take such action as is necessary or appropriate to provide comparable housing when it is not otherwise available to permit a project to proceed on a timely basis. Such actions can be taken on a case-by-case basis or on a project-wide basis. Agencies have broad latitude in implementing last resort provisions of the law; however such actions are to be cost effective in accordance with Section 24.404, 49 CFR. Last resort housing based on payments in excess of the statutory limits of Section 203 and 204, P.L. 91-646 will most likely be required for this project. The cost of said housing is anticipated to exceed the last-resort housing limit delegated to the District. Therefore, the District intends to request blanket authority for last resort housing from the Division for the project on a project-wide basis.